99TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
99-765

# UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT

AUGUST 7, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SWIFT, from the Committee on House Administration, submitted the following

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## REPORT

[To accompany H.R. 4393]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 4393) to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas, having considered the same, report favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed and Overseas Citizens Absentee Voting Act".

## TITLE I—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

SEC. 101. FEDERAL RESPONSIBILITIES.

(a) PRESIDENTIAL DESIGNEE.—The President shall designate the head of an executive department to have primary responsibility for Federal functions under this title.

(b) DUTIES OF PRESIDENTIAL DESIGNEE.—The Presidential designee shall—

(1) consult State and local election officials in carrying out this title;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as recommended in section 104;

(3) carry out section 103 with respect to the Federal write-in absentee ballot for overseas voters in general elections for Federal office;

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(4) prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 104;

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions; and

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this title, including a statistical analysis of voter participation and a description of State-Federal cooperation.

(c) DUTIES OF OTHER FEDERAL OFFICIALS.—

(1) IN GENERAL.—The head of each Government department, agency, or other entity shall, upon request of the Presidential designee, distribute balloting materials and otherwise cooperate in carrying out this title.

(2) ADMINISTRATOR OF GENERAL SERVICES.—As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b)) and Federal write-in absentee ballots (prescribed under section 103).

SEC. 102 STATE RESPONSIBILITIES.

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 103) in general elections for Federal office.

SEC. 103. FEDERAL WRITE-IN ABSENTEE BALLOT FOR OVERSEAS VOTERS IN GENERAL ELECTIONS FOR FEDERAL OFFICE.

(a) IN GENERAL.—The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general elections for Federal office by overseas voters who make timely application for, and do not receive, State absentee ballots.

(b) SUBMISSION AND PROCESSING.—Except as otherwise provided in this title, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an overseas voter shall not be counted—

(1) if the ballot is submitted from any location in the United States;

(2) If the application of the overseas voter for a State absentee ballot is received by the appropriate State election official less than 30 days before the general election; or

(3) If a State absentee ballot of the overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) SPECIAL RULES.—The following rules shall apply with respect to Federal write-in absentee ballots:

(1) In completing the ballot, the overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for then electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

(d) SECOND BALLOT SUBMISSION; INSTRUCTION TO OVERSEAS VOTER.—An overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to

inform the appropriate State election official that the voter has submitted more than one ballot.

(e) USE OF APPROVED STATE ABSENTEE BALLOT IN PLACE OF FEDERAL WRITE-IN ABSENTEE BALLOT.—The Federal write-in absentee ballot shall not be valid for use in a general election if the State involved provides a State absentee ballot that—

(1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and

(2) is made available to overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

(f) CERTAIN STATES EXEMPTED.—A State is not required to permit use of the Federal write-in absentee ballot, if, on and after the date of the enactment of this title, the State has in effect a law providing that—

(1) a state absentee ballot is required to be available to any voter described in section 107(5)(A) at least 90 days before the general election involved; and

(2) a State absentee ballot is required to be available to any voter described in section 107(5) (B) or (C), as soon as the official list of candidates in the general election is complete.

SEC. 104. RECOMMENDATIONS TO THE STATES TO MAXIMIZE ACCESS TO THE POLLS BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.

To afford maximum access to the polls by absent uniformed services voters and overseas voters, it is recommended that the States—

(1) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application;

(2) adopt the suggested design for absentee ballot mailing envelopes prescribed under section 101;

(3) waive registration requirements for absent uniformed services voters and overseas voters who, by reason of service or residence, do not have an opportunity to register;

(4) if an application other than an official post card form (prescribed under section 101) is required for absentee registration, provide that registration forms be sent with the absentee ballot and may be returned with it;

(5) expedite processing of balloting materials with respect to absent uniformed services voters and overseas voters;

(6) permit any oath requiried for a document under this title to be administered by a commissioned officer of the Armed Forces or any official authorized to administer oaths under Federal law or the law of the State or other place where the oath is administered;

(7) assure that absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity;

(8) assist the Presidential designee in compiling statistical and other information relating to this title; and

(9) provide late registration procedures for persons recently separated from the Armed Forces.

SEC. 105. ENFORCEMENT.

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to cary out this title.

SEC. 106. EFFECT ON CERTAIN OTHER LAWS.

The exercise of any right under this title shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

SEC. 107. DEFINITIONS.

As used in this title, the term—

(1) "absent uniformed services voters" means—

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) "balloting materials" means official post card forms (prescribed under section 101), Federal write-in absentee ballots (prescribed under section 103), and

any State balloting materials that, as determined by the Presidential designee, are essential to the carrying out of this title;

(3) "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) "member of the merchant marine" means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways)—

(A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or

(B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;

(5) "overseas voter" means—

(A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(B) a person who resides outside the United State and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Somoa;

(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration; and

(8) "United States", where used in the terrritorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

## TITLE II—POSTAL, CRIMINAL, AND GENERAL PROVISIONS

**SEC 201. AMENDMENTS TO TITLE 39, UNITED STATES CODE.**

(a) IN GENERAL.—Chapter 34 of title 39, United States Code, is amended by adding at the end of the following new section:

**"§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act**

"(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk)—

"(1) shall be carried expeditiously and free of postage; and

"(2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.

"(b) As used in this section, the term 'balloting materials' has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act.".

(b) TEHNICAL AMENDMENTS.—

(1) The table of sections for chapter 34 of title 39, United States Code, is amended by adding at the end of the following new item:

"3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act.".

(2) The first sentence of section 2401(c) of title 39, United States Code, is amended—

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

(B) by striking out "the Overseas Citizens Voting Rights Act of 1975, and the Federal Voting Assistance Act of 1955".

(3) Section 3627 of title 39, United States Code, is amended—

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

(B) by striking out "under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Absentee Voting Rights Act of 1975".

(4) Section 3648 of title 39, United States Code, is amended by striking out", or of the Federal Voting Assistance Act of 1955".

SEC. 202. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 608. Absent uniformed services voters and overseas voters

"(a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

"(b) Whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering or voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

"§ 609. Use of military authority to influence vote of member of Armed Forces

"Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following:

"608. Absent uniformed services voters and overseas voters.
"609. Use of military authority to influence vote of member of Armed Forces.".

SEC. 203. REPEALS.

The Federal Voting Assistance Act of 1955 (41 U.S.C. 1973cc et seq.) and the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.) are repealed.

SEC. 204 EFFECTIVE DATE.

The amendments and repeals made by this Act shall apply with respect to elections taking place after December 31, 1987.

## PURPOSE

The primary purpose of H.R. 4393 is to facilitate absentee voting by United States citizens, both military and civilian, who are overseas. H.R. 4393 provides for a write-in absentee ballot that may be used in Federal general elections by overseas voters who, through no fault of their own, fail to receive a regular absentee ballot in sufficient time to vote and return the ballot prior to the voting deadline in their State.

The secondary purpose of H.R. 4393 is to update and consolidate provisions of current law relating to absentee registration and voting in elections for Federal office by members of the uniformed services and by citizens of the United States who reside overseas.

## SUMMARY

### FEDERAL WRITE-IN ABSENTEE BALLOTS FOR OVERSEAS VOTERS

The most important part of H.R. 4393, as reported from Committee, is Section 103. This is the new section, which includes the provision for an alternative write-in absentee ballot for military and civilian overseas voters.

The alternative write-in will be made available on military bases and ships, at American embassies and consulates, and at other locations overseas. It may be used in Federal general elections only (elections for President, Vice President, Senator and Representa-

tive/Delegate/Resident Commissioner), and only by overseas voters who would otherwise be disenfranchised through no fault of their own.

As Chairman Swift commented during the Committee's hearing, the purpose of H.R. 4393 is "to facilitate [voting by] those who themselves had the desire to vote, did everything right to be able to get that right, and then were denied the piece of paper on which to do it."

To be eligible to use the ballot, a voter:

(1) *must* be an overseas voter;

(2) *must* be eligible to vote and be registered, or exempt from registration, under State law;

(3) *must* send the application for a regular absentee ballot early enough so it is *received* by the appropriate election official at least 30 days before the election;

(4) *must not* expect to receive the regular absentee ballot soon enough to return it prior to the State's deadline for counting absentee ballots; and

(5) *must* comply with State laws applying to regular absentee ballots (such as registration requirements, notarization requirements, etc.).

An overseas voter who submits a Federal write-in absentee ballot and later receives his regular absentee ballot may submit the regular ballot as well. (The overseas voter will be instructed to make every reasonable effort to notify the appropriate State election official when two ballots have been submitted.) If both ballots are received in time to be counted under State law, the regular absentee will be counted in lieu of the Federal write-in absentee ballot. The write-in will be counted only when it alone is received prior to the State's deadline for receiving absentee ballots.

Finally, Section 103 includes a State exemption provision. Any State that makes either regular absentee ballots or special write-in absentee ballots available to overseas voters at least 60 days before an election (as several States now do), may choose to be exempt from the Federal program.

### CONSOLIDATION AND UPDATE OF CURRENT LAW

Two statutes currently exist that deal with military and overseas voters. One is the Federal Voting Assistance Act of 1955; the other is the Overseas Citizens Voting Rights Act of 1975. Over the years, as conditions have changed and the laws have been amended, obsolete and even conflicting provisions have accumulated.

Other than the alternative ballot provisions in Section 103, H.R. 4393 makes only minor substantive changes in existing law. It simply consolidates and updates relevant provisions of the two current statutes. Both existing statutes are then repealed.

Those consolidated and updated provisions: (1) require States to provide for absentee registration and voting by uniformed services and overseas voters; (2) establish a Federal voting assistance program to facilitate absentee registration and voting by eligible voters; (3) provide a standard Federal Postcard Application (FPCA) form that States may use for registration and ballot application purposes; (4) stipulate that U.S. citizens overseas may continue to

vote for Federal office even if they have no current address in the United States; and (5) provide for postage-free mailing of FPCAs and other balloting materials.

## BACKGROUND

### HISTORY OF FEDERAL VOTING ASSISTANCE EFFORT

Since World War II, when the problem of voting absentee was first officially acknowledged, Congress has twice enacted legislation to protect the voting rights of all eligible citizens living, working or serving their country in uniform and overseas.

The first step was the Federal Voting Assistance Act (FVAA) of 1955, which encouraged all States to provide for absentee registration and voting procedures for military voters. Later amendments expanded the statute's application to their spouses and dependents, and then to all American citizens residing abroad.

To assist these voters, the Act established the Federal Voting Assistance Program. Currently administered by the Secretary of Defense, the Voting Assistance Program seeks to promote registration and voting by military and overseas voters. It performs a critically important function in providing registration and voting information to military and overseas voters.

A major portion of the information effort is accomplished through publication and distribution of the Voting Assistance Guide. This Guide is distributed to all military installations, United States embassies and consulates. It contains absentee registration and voting requirements, ballot submission deadlines and other necessary information for every State. It also includes the addresses of the appropriate county, city or township election officials in each State.

Another important element of the Federal Voting Assistance Act was provision for a standard Federal Postcard Application (FPCA) that election jurisdictions may use both for voter registration purposes, and also as ballot requests. These cards, printed and distributed through the Federal Voting Assistance Program, are widely available throughout the world—at military installations, embassies, consulates, corporations and organizations of overseas citizens. The FPCA has become the primary source used by overseas voters to register and request a ballot, and the cards are familiar to all local election officials.

The FVAA also made a series of recommendations to the States for facilitating efforts by eligible individuals "to use the absentee balloting procedures to the greatest extent possible." The recommendations included such things as encouraging States to: (1) accept the FPCA as sufficient for registration under State law; (2) accept a single FPCA as a simultaneous application for registration and for an absentee ballot; and (3) mail absentee ballots "as soon as practicable before the last date on which such ballot will be counted."

Finally, the Act required expedited mailing and provided free postage for FPCAs, ballots and voting instructions mailed under the Act.

Because many State laws proved to be restrictive and confusing regarding residency requirements, Congress again took action in 1975. The Overseas Citizens Voting Rights Act (OCVRA) was passed, ensuring the right to vote in Federal elections for all citizens residing overseas, even if they do not maintain a legal domicile in the United States. Under the Act, citizens are entitled to register and vote absentee in Federal elections (without tax consequences, under an amendment adopted in 1978) from the county or city where they were last domiciled prior to leaving the country. The OCVRA also required States to honor registration requests received not later than 30 days prior to a Federal election.

Presently, there are approximately 6 million individuals who are covered by one or both of these statutes, and who are assisted by the Federal Voting Assistance Program.

### STATE INITIATIVES

Efforts at the State level have aided in protecting the voting rights of these citizens. Acting in part on the impetus provided by recommendations from Congress in the FVAA and OCVRA, and in part on their own initiative, most States have moved to facilitate absentee voting.

For instance: (1) all States now allow absentee voting in each election for citizens covered by the FVAA and the OCVRA; (2) nearly all States either allow a voter to be registered upon receipt of the FPCA, or exempt the voter from registration; (3) absentee voters in virtually all States may now both register and request an absentee ballot with a single application; and (4) several States accept absentee ballots, particularly those from overseas, for a specified number of days after election day.

### REMAINING VOTING PROBLEMS FOR OVERSEAS CITIZENS

Despite these significant advances, certain obstacles still exist.

*Information*

One of the most important problems that remains is only partially within the power of the States to affect. That is the difficulty of getting adequate information to overseas voters. Robert Carter, Chairman of Republicans Abroad, suggested in his testimony before this Committee that lack of information regarding absentee voting contributed significantly to the low voter participation of overseas non-military citizens. In the post-election surveys conducted by the Federal Voting Assistance Program, well over 10% of the non-voters cited as their primary reason for not voting that they "didn't know how to get a ballot."

The Federal Voting Assistance Program is continuing to work to improve the flow of information. Groups of overseas citizens, both military and civilian, have jointed in the effort. Extensive programs to encourage voters to register and vote, and to provide the necessary information to make those efforts successful, are ongoing.

*Voter error*

A second major problem, that is related to the first and is also outside the power of the States to influence, is voter error. Clearly, in many instances the failure of the voter to receive a ballot in a timely manner is the voter's fault. If FPCAs are filled out incorrectly, election officials are hard pressed to provide ballots. Election officials surveyed by the Pentagon after the 1984 election indicated that the lack of an adequate home address on the FPCA was by far the most frequent problem in processing applications for registration and/or absentee ballots. According to Thomas Walsh, County Clerk, LaSalle County, Illinois, in testimony before this Committee:

> Without a detailed address being given—by that I mean not just a rural route number—it is impossible to issue a ballot since we have portions of three congressional districts, three State senate districts, three State representative districts, and 29 county board districts to consider, which is not unique, as many county election authorities are faced with the same problem.

Instances of FPCAs that were illegible, incomplete or otherwise impossible for officials to process were also cited as frequent. On average, according to the survey, between 7% and 8% of all FPCAs could not be processed due to voter error (and in some jurisdictions the rate was significantly higher).

Again, those in the Federal Voting Assistance Program are working to alleviate the problem. Testimony received by the Committee suggested that wider availability of the Voting Assistance Guide would help. Also, voting assistance is not always a high priority with the consular and military officers to whom it is assigned as a duty. More effort needs to be directed through the proper channels to highlight the importance of the voting assistance function. Private groups can help as well, with efforts similar to that described in the Committee's hearing by C.R. Jackson of the Non Commissioned Officers Association (NCOA). NCOA has developed a simplified voter registration kit to supplement the Voting Assistance Guide, to further assist military voters in being able to comply with their State laws.

*Legal and administrative*

In many States, legal and administrative obstacles to voting still exist. Although most States have taken steps to facilitate absentee voting, there are still State requirements that tend to discourage or confuse overseas citizens.

In 1984 twenty-one States required that either the registration form, the ballot request and/or the return envelope be notarized. According to the testimony of Dean Ferrier of Democrats Abroad:

> For Americans living great distances from U.S. Consulates, the solution was either to make one or several trips there or to pay non-American notaries up to $12 for each notarization.

A second obstacle is the requirement that voters submit more than one Federal Postcard Application form in an election year.

While forty-eight States now send a ballot in response to a single FPCA (rather than requiring one FPCA to register and a second to request a ballot), twenty-three require separate FPCAs for primary and general elections.

Yet another problem occurs in the twenty-four States that do not accept FPCAs prior to a certain date. Voters in several States may not apply for a ballot more than 60 days prior to an election and, in one State, not more than 40 days prior to an election. These "not earlier than" dates have proven frustrating, especially to voters in the military, who want to apply for ballots early to ensure adequate ballot transit time—but who may then be disqualified for having applied too early.

*Failure to provide adequate ballot transit time*

While each of the previous elements is important, and the Committee certainly encourages States to continue their efforts to streamline their procedures, the single largest reason for disenfranchisement of military and overseas voters is State failure to provide adequate ballot transit time.

In the last election, 1984, thousands of military and overseas voters attempted to vote but were unable to do so simply because their ballots arrived either too late or not at all. Based on surveys conducted by the Federal Voting Assistance program, approximately 8.4% of military voters, 7.8% of federal civilians, and 5% of other civilians, tried but were unable to vote for this reason. That is a total of approximately 400,000 citizens.

This number does not include those voters who submitted a ballot but were unaware that it was received too late by election officials to be counted. Tony Sirvello, testifying on behalf of Anita Rodeheaver, Clerk of Harris County, Texas, commented that: "In 1984 we mailed approximately 12,000 ballots to overseas voters. Of that number, we received back 9,500 in time to be counted * * *. Of the remaining number, 350 were returned too late to be counted * * *."

The total also does not include the many others who may have been discouraged from even making the attempt to vote because of past difficulties. As C.R. Jackson of the Non Commissioned Officers Association pointed out in hearing testimony, if ballots do not come, it not only disenfranchises the specific voters who failed to receive them, it undermines efforts to get people to register and vote to begin with.

And that problem, the timely receipt of absentee ballots, is the issue addressed by Section 103 of this bill, H.R. 4393.

## Timely Receipt of Absentee Ballots

### 45-DAY TRANSIT TIME

Mail delivery is a problem for overseas voters. Members of the military may be in locations where mail service is sporadic, or they may be away for days or weeks at a time on temporary duty or on maneuvers. Among civilians overseas, missionaries and Peace Corps Volunteers in particular often work in remote areas where

mail delivery is slow. Citizens working on oil rigs or on remote construction sites regularly encounter mail delays.

Based on surveys of the U.S. Postal Service and of military postal authorities, ballots should be mailed to overseas addresses *at least* 45 days prior to an election in order to ensure adequate time for a ballot to reach a voter and be returned.

Mr. Sirvello's testimony corroborated these surveys:

> The Federal postcard applicant in Texas, and especially in Harris County, is one of the major portions of our voting public, primarily because of our oil-related business and also because of the military voters. We had problems in the late 1970's and early 1980's, considerable problems * * *. [W]e lobbied our State legislature in 1981 and 1983 and we finally got passed in 1983 legislation to allow us to mail the ballot 45 days before the election. This made a tremendous difference in the 1984 primary and general, especially the general election.

Currently, in only twenty-two States are ballots mailed 40 days or more prior to the date ballots are counted. In the 1984 election, although there was improvement over earlier elections, almost one-fifth of all ballots were mailed during the last two weeks in October. Obviously this is long past the last week or two of September that would be required to provide the necessary 45 day transit time. Absentee ballots were first sent out in one State only thirteen days before the general election. Even voters within the United States are hard pressed to receive, vote and return a ballot in that time.

In most instances there is little election officials can do to get ballots mailed earlier, despite their best efforts. There are twenty-three States, for example, with primaries or runoff elections in September or late August. By the time primary results are canvassed and certified and ballots are printed, election officials in these States may find themselves well within the 45 day time.

According to John Pearson of the office of the Secretary of State in Washington State:

> Because our primary is held on the third Tuesday in September, and because of existing statutory and administrative procedures with respect to the certification of the returns from that election, it can be as late as the second week in October before all of the nominees for the general election ballot are known. This can result in absentees not actually being mailed until mid-October.

Even in States with earlier primaries there are problems. As Charles C. Partridge of the National Association for Uniformed Services pointed out in his testimony before the Committee.

> Often, the problem is litigation about the shape of voting districts, the wording of ballot propositions, or the access of candidates to the ballot. Until such litigation is settled, ballots cannot be printed, much less mailed.

### NEED FOR WRITE-IN BALLOT, EVEN WITH 45-DAY TRANSIT TIME

Even if all States could always provide 45 day transit time for all ballots, however, that still might not be sufficient for some voters. As Henry Valentino, Director of the Federal Voting Assistance Program, said in his testimony before the Committee.

> As many as 200,000 members of the Navy and Marine Corps are at sea at any given time. * * * [and] can be outside normal mail communication for days or weeks at a time. Military members at hundreds of radar tracking sites scattered around the globe or serving in remote areas receive mail only sporadically. Even military stationed in Germany, Japan, or England where mail delivery is more frequent, may deploy frequently on maneuvers or temporary duty assignments where their mail does not follow them.

### STATE WRITE-IN ABSENTEE BALLOTS

Several States have already recognized this problem and have addressed it for their voters through the use of special write-in absentee ballots, which are generally available to overseas voters 90 days before an election. It is these State initiatives that have provided a pattern and an impetus for Federal action.

In studying the special write-in ballot proposal, the Committee was very interested in hearing from election officials of those States which have enacted legislation in order to determine the feasibility and success of such programs. Julia Tashjian, the Secretary of State of Connecticut, commented on Connecticut's law:

> Connecticut's experience with its write-in absentee ballots demonstrates the need for this type of ballot. The frequency of use of the special blank ballots has increased since * * * [it] was first instituted in 1978, and I have heard many positive comments from local election officials, elected public officials and electors who have taken advantage of the special blank ballots.

Officials from the State of Washington also report success with this type of legislation. Mr. Pearson testified that in the first year of their law:

> * * * our local election officials estimate that several hundred special absentee ballots were requested and the vast majority were voted and returned. It should be kept in mind that these were from voters that would have been disenfranchised had we not had the special absentee provision in our law, and that we expect that even more voters will take advantage of this new provision in our law as its availability becomes more widely known.

### CONCLUSION

When overseas voters fail to receive their absentee ballots in time to vote and return them, they are clearly and effectively disenfranchised. Whether State procedures are not conductive to providing adequate transit time, or whether ballots are mailed late de-

spite the best efforts of everyone involved, in either case the effect—disenfranchisement—is the same.

The Federal Office of Voting Assistance, with the help of the Justice Department, can fight the disenfranchisement piecemeal—and they do. In each election they sue the five or six States that are the worst offenders in late mailing. In total, fifteen times they have sued and fifteen times they have won.

But the court judgments generally affect one election only, so the same State often must be sued more than once with no permanent resolution of the problem. In addition, voters who receive ballots late but who are not from States that are sued in a given year remain frustrated in their efforts to vote.

A much better solution than continual rounds of litigation is to ensure that affected voters—those whose absentee ballots are not mailed in a timely manner—nonetheless have an opportunity to vote.

As Mr. Thomas pointed out: "the job of the Federal Government is to provide a mechanism so that a person can participate in elections * * *." H.R. 4393 is that mechanaism.

## Analysis of H.R. 4393

### Proposed Federal Write-In Ballot

*What it is*

The ballot will be a simple, one page sheet that will provide voters the opportunity to write in their choices for President, Senator and Representative (or Delegate or Resident Commissioner). It will be made available by the Presidential designee, along with both a secrecy envelope and a mailing envelope. Ballots and envelopes will be designed by the Presidential designee in cooperation with State and local election officials and, when appropriate, the Postmaster General.

*Availability*

The ballot will be available through the same sources as the Federal Postcard Application (FPCA), such as military bases and embassies. Also, an election jurisdiction may request ballots to send to their overseas voters.

*Who may use it*

Overseas voters *only* may use the write-in ballot. Military voters stationed within the United States but sent on maneuvers or extended assignment outside the territorial limits of the U.S. may use the write-in ballot once outside of U.S. if they have followed all necessary procedures. Only those ballots mailed with an APO, FPO, or foreign postmark will be considered valid.

*Requirements for use of the ballot*

First, a voter must have requested a regular absentee ballot so that the request is *received* by local election officials at least 30 days before the election in order for the voter to be eligible. If a valid ballot request is not on file, the write-in will not be counted.

The voter must assume responsibility for mailing the request in time. Clearly, since the voter will not know exactly when the request will be received, the burden is on the voter to mail it in plenty of time. (Of course, if a State has a ballot request deadline of less than 30 days, an individual may send the request later—but would be entitled to the regular ballot only, not the write-in).

Having placed the burden of timely application on the voter, the Committee urges the States to assit the voters in complying with this provision by eliminating all remaining "not earlier than" dates.

Also, the Committee notes that three-forths of the States acknowledge receipt of ballot requests, and believes that is a good practice. An acknowledgement assists both voters and election officials. Acknowledgment will help the voters by assuring him that his ballot request was received, and that subsequent failure to receive a regular absentee ballot was not due to an error on his part—particularly since such an error would likely to invalidate the write-in ballot in turn. Similarly, it will help election officials since failure to receive an acknowledgment should give a voter notice that his or her ballot request is incomplete or inadequate, so he or she does not proceed to submit an invalid write-in ballot.

Second, except as otherwise provided in H.R. 4393, the Federal write-in ballot "shall be submitted and processed in the manner provided by law for absentee ballots in the State involved." This means that a voter must be eligible to vote, and must be registered (or exempt from registration under State law). In most instances, an FPCA itself serves either to register the voter, or to exempt the voter from registration requirements. It is the voter's responsibility to know and follow the State requirements, which will be the same for both the regular absentee ballot and the Federal write-in ballot. It also means that any other State requirements for absentee ballots, such as notarization, apply to the Federal write-in just as they do for the regular ballot. Finally, in order to be counted the write-in must be received by whatever the State's deadline is for receipt of overseas absentee ballots.

*When the write-in may be submitted*

The write-in ballot is to be used only when the voter determines that the regular ballot will not arrive in time. The voter should allow a reasonable amount of time for the regular ballot to arrive before mailing the write-in ballot, since it is intended as an emergency back-up measure rather than as a replacement for the regular ballot.

*To whom the write-in should be submitted*

The write-in will be sent to the same election official who would receive the regular absentee ballot. Information as to who the appropriate election official is will be available in the Voting Assistance Guide.

*If the regular absentee should arrive*

If the voter completes and mails the write-in, then receives the regular ballot, the voter may complete and return that as well. (To assist election officials voters will be instructed that, when they

send in a regular absentee, they should seek to alert the appropriate election officials that they have submitted more than one ballot.) If the regular ballot is received, it will be counted and the write-in ballot will be discarded. The write-in ballot will be counted only if it is the only ballot received.

*Elections for which the write-in is valid*

The Federal write-in ballot may be used in Federal general elections.

The Committee would like to make the ballot available for Federal primary elections as well. However, the requirement that voters in some Presidential primaries vote for delegates, rather than for Presidential candidates, precludes that option. If there are slates of committed delegates there is no problem, because it could be stipulated that a write-in vote for a candidate would be counted as a vote for the slate of delegates. But things are not so simple in all States.

There are States in which delegates are listed on the ballot without candidate preference, or where there are more delegates committed to a candidate than can be elected. In such instances, voters must vote directly for the delegates, and it would be difficult for overseas voters to have sufficient information to be able to vote for delegate candidates. Furthermore, even if they had the information, the write-in ballot would have to be printed with sufficient lines to allow for delegate voting, which would most certainly confuse voters from other States.

Accordingly, the Committee chose—at least initially—to confine the Federal write-in ballot to general elections. If procedures should become more uniform among the States, the Committee could certainly consider adding primary elections to H.R. 4393.

*How the ballot may be voted*

The voter may write in the name of the candidate for each office. Alternatively, if the candidates are unknown to the voter (which may happen if, for instance, a military voter about to be sent out on submarine duty is casting his ballot for the general election before his State's primary has been held), the voter may designate the nominee of a political party instead.

H.R. 4393 provides, as do most State laws, that the intent of the voter in casting the ballot should govern. In other words, minor variations in spelling candidate or pary names should be disregarded in ballot counting so long as the intention of the voter can be ascertained.

Also, H.R. 4393 stipulates that so far as the Federal write-in ballot is concerned, a vote for a Presidential candidate shall be counted as a vote for the appropriate slate of Electors, regardless whether State law requires voters to vote directly for the Electors.

*Information to be included on the ballot and accompanying envelopes*

The exact design of the ballots, secrecy envelopes and mailing envelopes will be determined by the Presidential designee, in consultation with State and local election officials. Further, the Postmaster General will assist in the design of mailing envelopes, as is the

current practice, to ensure proper address characteristics that will facilitate the processing and delivery of mail.

H.R. 4393 does not specify the exact form of these materials because the Committee is seeking to avoid the problem that arose when the precise form of the FPCA was included in the Federal Voting Assistance Act. As conditions changed, thereby changing the requirements for what should be included in the postcard, an Act of Congress was required to accommodate the changes. The Committee would prefer to provide the Presidential designee with maximum flexibility to adjust to changing times.

Nevertheless, there are items the Committee believes should be included in the designs.

First, the Committee recognizes that it will be difficult to ensure the secrecy of the Federal write-in ballots. Since few such ballots will be received in any given election jurisdiction, and they will be different from all other ballots, it will sometimes be possible for those involved in counting the ballots to know how an individual voter voted. This matter was discussed in the Committee's hearing and the general feeling was that most overseas voters would prefer to have the opportunity to vote, even though their ballots might not be secret. In fairness to the voters, however, the Committee believes that there should be a notation on the ballot indicating that its secrecy cannot be assured.

Second, as noted in Section 103(d), voters are to be instructed that *if* a regular absentee is submitted after a federal write-in has been sent, they should make every reasonable effort to inform the appropriate election officials that they have submitted more than one ballot. Election jurisdictions have procedures for logging absentee ballots—and comparing them to votes cast in person, for instance—to ensure that no votes are duplicated. As an additional safeguard, however, the Committee feels it would be useful if voters submitting two ballots in accordance with this Act could alert the appropriate election officials to that fact.

Third, most States now require certain identifying information in a ballot request, such as the individual's social security number, date of birth or place of birth. The Committee believes that similar information should be included on the mailing envelope of the write-in, to assist election officials in correlating each write-in ballot with the appropriate ballot request.

Finally, it might be useful to require voters to certify on the mailing envelope that they are mailing their ballots from outside the U.S.

*State exemptions—*

States that provide absentee ballots—either special write-ins or regular absentee balots—at least 60 days prior to the State deadline for receipt of overseas absentee ballots, may apply to the Presidential designee for an exemption. If granted, the State would not be required to accept the Federal Write-in ballot.

The Committee chose 60 days in order to include as many as possible of the States that currently have special write-in ballots. The Committee notes, however, that all but one make their ballots

available 90 days before an election for most voters. The Committee strongly encourages States to adopt the 90-day period. Ninety days is preferable because certain groups of citizen—submariners in particular—may not have access to mail service for weeks at a time, and 60 days may not be sufficient.

(As a part of its effort to accommodate those States that currently have special write-in ballots, the Committee has specifically exempted the State of Connecticut in section 103 (f). Connecticut does not fall under the generic State exemption because, while it has a 90-day ballot for military voters, its ballot for overseas civilians is available when the official list of candidates is complete. The Committee understands that this means the ballot for overseas civilians is available at least 45 days in advance, and is exempting Connecticut with that understanding. Generally, however, the Committee believes it is preferable to treat all classes of voters alike and therefore has chosen not to make this alternative available to other States.)

Currently, there is one State that, by law, makes *regular* absentee ballots available 60 days before an election. Regular absentee ballots are unlike write-ins in that their printing and mailing may be delayed by ballot access challenges and other such events, despite the law. However, *if* a State has regular absentee ballots actually available 60 days ahead of time, the State may apply for exemption from H.R. 4393 just the same as States with special write-ins.

The Committee encourages States to consider providing their own special write-in ballots. State ballots have significant advantages over the Federal ballot, including:

(1) States can make their ballots available for primary elections as well as general elections, as all but one of the States with their own write-ins now do (and the one State in question expects to extend its write-in to primaries in the next legislative session);

(2) States can provide voters with the opportunity to vote for State offices as well as Federal ones; and

(3) States can provide better and more complete information, tailored to their own voters, on candidates, ballot issues and voting requirements.

Regardless of whether they provide their won write-in ballots, the Committee encourages all election jurisdictions to mail their absentee ballots as early as they possibly can. This will provide all absentee voters, not just overseas voters, with a fuller opportunity to vote. Also, the earlier ballots are mailed, the fewer write-ins there will be to be processed.

### UPDATE OF CURRENT LAW

In preparing legislative language for the alternative absentee ballot proposal, the Committee was careful to consider both the Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975. It became clear that much of the language in these laws has become obsolete or redundant. Before adding the proposed amendment, the Committee decided to consolidate and clarify current law.

It is the Committee's intent simply to update the current law; other than the addition of the write-in ballot provision, there are only minor substantive differences between current law and the provisions of H.R. 4393.

The following provisions, contained in the Federal Voting Assistance Act of 1955, or the Overseas Citizens Voting Rights Act of 1975, or both, were deleted from the proposed legislation:

A recommendation that States allow qualified absentee voters to acquire legal residence, regardless of their residence on a military installation, and to register and vote in local, State, and national elections.

This recommendation is no longer necessary because it is now an established principle under case law. (See Evans v. Cornman, 398 U.S. 419 1970.)

A directive to the Attorney General to cooperate with and advise State governments in drafting State legislation designed to implement the recommendations for State action contained in this Act.

If such assistance is necessary, this language is superseded by a generic requirement in section 101(c)(1) that the head of each Government department shall, upon request of the Presidential designee, "cooperate in carrying out this title."

A stipulation that the Administrator of General Services should deliver Federal Post Card Applications in time for them to be in the hands of the applicants outside the territorial limits of the U.S. not later than August 15 before an election, and not later than September 15 if the applicants are inside the territorial limits of the United States.

As above, this has been replaced by more generic language. Section 101(c)(2) requires the Administrator to furnish official postcards (and the Federal write-in absentee ballots, as well) "[a]s directed by the Presidential designee * * *."

A requirement that balloting materials can be carried "by priority airmail or by the most expedited service available, whenever practicable."

This has been replaced by a requirement that balloting materials be carried "expeditiously." The Committee recognizes the advent of Express Mail and intends only to ensure that balloting materials be carried as fast as they are now, but not necessarily by Express Mail.

A direction to the Postmaster General to facilitate the transmission of balloting materials to and from absentee voters.

This provision is redundant, since other provisions: (1) require the cooperation of the heads of all government departments or agencies; and (2) require balloting materials to be carried expeditiously.

Dimensions and design specifications of mailing envelopes for ballots and of the FPCA.

These provisions are obsolete. They have been replaced by more general provisions directing the Presidential designee to design the materials in cooperation with State and local election officials. The new language provides more flexibility for design changes when necessary.

Instructions for preventing the gummed flap of the return envelope from adhering to the balloting materials.

This provision is obsolete.

Individuals concerned with the administration of this Act shall take all necessary steps to prevent fraud, protect voters against coercion, and safeguard the integrity and secrecy of ballots cast.

This provision is well established in Federal and State law.

No act done in good faith under this Act by a person serving in or with the Federal or military service shall constitute a violation of any provision of law relating to the elective franchise.

This principle is well established in the law and is not required to be repeated here.

A severability clause contained in both Acts stating that if any provision of this Act is held invalid, the validity of the remainder of the Act shall not be affected.

Again, the principle is well established in the law and is not required to be repeated.

A statement that this Act will not be deemed to require registration in any State in which registration is not required as a precondition to voting in a Federal election nor will it prevent any State from adopting any voting practice which is less restrictive than the practices prescribed by this Act.

These provisions are unnecessary. Nothing in this Act will do either.

## COMMITTEE ACTION

The Subcommittee on Elections held a hearing on February 6, 1986 to discuss the Federal write-in absentee ballot proposal.

Witnesses presenting testimony included the director of the Federal Voting Assistance Program and election officials from Connecticut, Illinois, Texas and Washington. Also represented were the Non Commissioned Officers Association, the National Association of Uniformed Services, Democrats Abroad, and Republicans Abroad.

On July 16, 1986 the Subcommittee ordered H.R. 4393 reported to the full Committee, as amended. It was ordered reported by unanimous voice vote, after unanimous adoption of an amendment offered by Mr. Frenzel. The Frenzel amendment is contained in the "Instructions to Overseas Voter" portion of Section 103(d).

H.R. 4393 was ordered reported from the Committee on House Administration on August 7, 1986. It was ordered favorably reported, as amended, by unanimous voice vote, a quorum being present.

## SECTION BY SECTION

*Section 1*

Section 1 of H.R. 4393 establishes the title of the Act as the "Uniformed and Overseas Citizens Absentee Voting Act".

### TITLE I—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

*Section 101*

Subsection (a) of section 101 provides that the president shall designate the head of an executive department to have primary responsibility for Federal functions with respect to this Act and de-

lineates the specific responsibilities of the Presidential designee. The Secretary of Defense has traditionally been the designee under the Federal Voting Assistance Act of 1955, and the Committee anticipates that this practice will continue.

Subsection (b) establishes the duties of the Presidential designee, such as prescribing the forms of the balloting materials made available under this Act, consulting with State and local election officials, and transmitting a report to Congress after each Presidential election.

Subsection (c) lists the responsibilities of other Federal officials with respect to this Act. Such other Federal officials include in particular the Administrator of General Services and the Postmaster General.

*Section 102*

Section 102 establishes that each State, with respect to all Federal elections, shall provide for absentee registration and absentee voting by absent uniformed services voters and overseas voters, and that each State shall permit the use of Federal write-in absentee ballots by overseas voters in Federal general elections when regular absentee ballots are not available. It states further that otherwise valid applications for registration submitted by absent uniformed services voters and overseas voters should be accepted and processed if received not less than 30 days before an election.

*Section 103*

Subsection (a) of section 103 provides for the design of a Federal write-in absentee ballot, secrecy envelope and mailing envelope. It also specifies who may use the ballot, and under what circumstances.

Subsection (b) stipulates that, except as otherwise provided in H.R. 4393, State laws on absentee ballots apply to the Federal write-in. The subsection also imposes certain processing requirements on the write-in ballots.

Subsection (c) provides special rules related to the counting of Federal write-in ballots, such as the stipulation that a voter may vote either for a candidate or for a party nominee.

Subsection (d) allows a voter to submit both a write-in and a regular absentee. It also suggests that voting instructions accompanying the Federal write-in ballot should indicate to voters that, if they subsequently send in a regular absentee, they should alert the appropriate election officials that two ballots have been forwarded. (The reference to "State election official" of course encompasses local officials as well. Generally the appropriate election officials will actually be local.)

Subsection (e) provides that in a given State, either a write-in or a regular ballot may be used in lieu of the Federal write-in absentee ballot if such ballot is approved by the Presidential designee and is made available to voters at least 60 days before the election.

Subsection (f) exempts a specific State from being required to accept the Federal write-in. The State in question currently has a State write-in ballot, even though it does not fall under the generic exemption provided in subsection (e).

The Committee notes that all absentee ballots issued within a State, whether technically they are provided by the State itself or by local election jurisdictions within the State, are of course included in the term "State absentee ballot" as used in this Section.

*Section 104*

Section 104 makes eight recommendations to the States to ensure maximum access to the polls by absent uniformed services voters and overseas voters. They suggest, among other things, that for individuals covered by this Act the States should: (1) use the FPCA as a simultaneous registration application and ballot request; (2) generally waive registration requirements; (3) expedite processing of balloting materials; and (4) assure that absentee ballots are mailed at the earliest opportunity.

*Section 105*

Section 105 empowers the Attorney General to bring civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this Act.

*Section 106*

Section 106 carries forward the provisions currently found in section 9(b) of the Overseas Citizens Voting Rights Act. These provisions stipulate that the exercise of the right to register and vote in Federal elections shall not affect the determination of a voter's place of residence or domicile for purposes of Federal, State or local tax liability.

*Section 107*

Section 107 contains the following definitions:

"absent uniformed services voter" includes members of the uniformed services, members of the merchant marine, and the spouses and dependents of either;

"balloting materials" means official postcards, Federal write-in ballots, and any State (including local) balloting materials that the Presidential designee determines are essential to the purposes of H.R. 4393;

"Federal office" means the offices of President, Vice President, Senator and Representative (or Delegate or Resident Commissioner);

"member of the merchant marine" is defined;

"overseas voter" means either: (1) an absent uniformed services voter whose duty requires that he be outside the United States on election day; or (2) a person residing outside the United States either permanently or temporarily, even if the individual does not have a valid passport or card of identity and registration issued under the authority of the Secretary of State, so long as the individual has an alternative form of identification consistent with this Act and with applicable State or district requirements; and

"State" means the States of the United States, along with the District of Columbia, Puerto Rico, Guam, the Virgin Islands and American Samoa;

"uniformed services" means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration; and

"United States" where used in a territorial sense means the States, the District of Columbia, Puerto Rico, and the territories listed above.

TITLE II—POSTAL, CRIMINAL AND GENERAL PROVISIONS

*Section 201*

Section 201 carries forward from the Federal Voting Assistance Act and the Overseas Citizens Voting Rights Act certain amendments to title 39, United States Code. In addition, it includes references to the Federal write-in ballot in those provisions. The section:

(1) requires balloting materials under this Act to be carried expeditiously and free or postage;

(2) stipulates that balloting materials may be mailed at post offices outside the United States (which allows access to APO and FPO mailboxes even for non-military voters overseas) "unless such mailing is prohibited by treaty or other international agreement of the United States;" and

(3) defines "balloting materials" as having the meaning given to the term in this Act.

Section 201 also makes necessary technical amendments to title 39.

*Section 202*

Section 202 rephrases and transfers to title 18, United States Code, criminal provisions now included in the Federal Voting Assistance Act and the Overseas Citizens Voting Rights Act. The provisions contain criminal penalties for anyone who:

(1) knowingly deprives, or attempts to deprive, an individual of his right to vote under this Act;

(2) knowingly gives false information for the purpose of establishing the eligibility of any person to vote under this Act, or pays, or offers to pay, or accept payment for registering or voting; or

(3) uses military authority to influence the vote of a member of the Armed Forces.

Section 202 also makes appropriate technical amendments to title 18.

*Section 203*

Section 203 repeals the Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975.

*Section 204*

Section 204 provides that this Act will apply with respect to elections taking place after December 31, 1987.

### COMMITTEE OVERSIGHT

Pursuant to clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on House Administration has reported this bill in accordance with its responsibility to conduct oversight with respect to Federal elections.

### GOVERNMENT OPERATIONS OVERSIGHT

Pursuant to clause 4(c)(2) of rule X of the Rules of the House of Representatives, the Committee on House Administration received no oversight recommendations from the Committee on Government Operations.

### INFLATIONARY IMPACT STATEMENT

H.R. 4393 will have no inflationary impact on prices and costs in the operation of the national economy.

### COMMITTEE COST ESTIMATE

The Committee concurs in the Congressional Budget Office cost estimate which follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC August 7, 1986.*

Hon. FRANK ANNUNZIO,
*Chairman, Committee on House Administration,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4393, a bill to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services, and persons who reside overseas. CBO estimates that an initial printing cost of $50 thousand will be required in fiscal year 1987 and there will be recurring postage costs of $20 thousand in fiscal years 1989 and 1991.

Enactment of this bill will have no significant cost effect on state and local governments.

Sincerely,

RUDOLPH G. PENNER.

### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, and shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## TITLE 39, UNITED STATES CODE

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## CHAPTER 24.—APPROPRIATIONS AND ANNUAL REPORT

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### § 2401. Appropriations

(a) * * *

* * * * * * *

(c) There are authorized to be appropriated to the Postal Service each year a sum determined by the Postal Service to be equal to the difference between the revenues the Postal Service would have received if sections 3217, 3403–[3405] *3406;* and 3626 of this title, [the Overseas Citizens Voting Rights Act of 1975, and the Federal Voting Assistance Act of 1955] had not been enacted and the estimated revenues to be received on mail carried under such sections and Acts. In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume.

* * * * * * *

## CHAPTER 34.—ARMED FORCES AND FREE POSTAGE

Sec.
3401. Mailing privileges of members of Armed Forces of the United States and of friendly foreign nations.
3402. [Repealed.]
3403. Matter for blind and other handicapped persons.
3404. Unsealed letters sent by blind or physically handicapped persons.
3405. Markings.
*3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act.*

* * * * * * *

### *§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act*

*(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk)—*

*(1) shall be carried expeditiously and free of postage; and*

*(2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.*

*(b) As used in this section, the term "balloting materials" has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act.*

## CHAPTER 36.—POSTAL RATES, CLASSES, AND SERVICES

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## SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

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**§ 3627. Adjusting free and reduced rates**

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent at a free or reduced rate under section 3217, 3403-[3405], 3406, or 3626 of this title, [under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975], the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate. (Amended,

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SUBCHAPTER V—GENERAL

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**§ 3684. Limitations**

Except as provided in section 3627 of this title, no provision of this chapter shall be construed to give authority to the Governors to make any change in any provision of section 3682 or 3683 or chapter 30, 32, or 34 of this title [,or of the Federal Voting Assistance Act of 1955].

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# TITLE 18, UNITED STATES CODE

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## CHAPTER 29—ELECTIONS AND POLITICAL ACTIVITIES

Sec.

* * * * * * *

*608. Absent uniformed services voters and overseas voters.*
*609. Use of military authority to influence vote of member of Armed Forces.*

* * * * * * *

***§ 608. Absent uniformed services voters and overseas voters***

*(a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.*

*(b) Whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering or voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.*

***§ 609. Use of military authority to influence vote of member of Armed Forces***

*Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence*

*the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office.*

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## FEDERAL VOTING ASSISTANCE ACT OF 1955

[AN ACT

[Making recommendations to the States for the enactment of legislation to permit and assist Federal personnel, including members of the Armed Forces, and their families, to exercise their voting franchise, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as "The Federal Voting Assistance Act of 1955".

### [TITLE I

#### [RECOMMENDATIONS OF THE CONGRESS TO THE SEVERAL STATES

[SEC. 101. (a) The Congress hereby expresses itself as favoring, and recommends that the several States take, immediate legislative or administrative action to enable every person in any of the following categories who is absent from the place of his voting residence to vote by absentee ballot in any primary, special, or general election held in his election district or precinct, if he is otherwise eligible to vote in that election:

[(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

[(2) Members of the merchant marine of the United States and their spouses and dependents.

[(3) Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them."

[(b) Each State shall enable every citizen in the following categories who is absent from the place of his voting residence to register absentee and to vote by absentee ballot in any Federal election, as defined in section 2(1) of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd(1)), held in his election district or precinct if he is otherwise eligible to vote in that election:

[(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

[(2) Members of the Merchant Marine of the United States, and their spouses and dependents.

The rights granted in this section shall be supplemental to the voting rights presently enjoyed by these citizens under other Federal and State laws.

[SEC. 102. To afford ample opportunity for persons covered by section 101 of this Act to vote for Federal, State, and local officials and to use the absentee balloting procedures to the greatest extent possible, it is recommended that each of the several States—

[(1) accept as applications for absentee ballots under such States' absentee balloting laws, as applications for registration under such States' election laws, and as sources of information to implement State absentee balloting laws, the form of post card (when duly executed by a person covered by section 101 of this Act) provided pursuant to this Act;

[(2) waive registration of persons covered by section 101 of this Act, who, by reason of their service, have been deprived of an opportunity to register;

[(3) accept the post card application provided pursuant to this Act as a simultaneous application for registration and for ballot;

[(4) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

[(5) make provision for persons eligible to register and qualified to vote, who have been honorably discharged from the Armed Forces, or have terminated their service or employment, too late to register at the time when, and at the place where, registration is required, to vote at the election next ensuing after such discharge or termination.

[(6) authorize and instruct the State or local election officials, upon receipt of the post card application provided pursuant to this Act, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope;

[(7) provide that there be printed across the face of each envelope in which a ballot is sent two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be one and one-quarter inches from the top of the envelope, and with the words "Official Election Balloting Material—via Air Mail", or similar language, between the bars; that there be printed in the upper right corner of each such envelope, in a box, the words "Free of U.S. Postage, Including Air Mail"; that all printing on the face of each such envelope be in red; and that there be printed in red in the upper left corner of each State ballot envelope an appropriate inscription or blanks for return address of sender;

[(8) provide that the gummed flap of the State envelope supplied for the return of the ballot be separated by a wax paper or other appropriate protective insert from the remaining balloting material and that there be included in, State voting instructions a procedure to be followed by absentee voters, such as notation of the facts on the back of the envelope duly signed by the voter and witnessing officer, in instances of adhesion of the balloting material;

[(9) reduce in size and weight of paper, as much as possible, envelopes, ballots, and instructions for voting procedure;

[(10) for the purposes of this Act, authorize oaths required by State law to be administered and attested by any commissioned officer in the active service of the Armed Forces, any member of the merchant marine of the United States designated for this purpose by the Secretary of Transportation, the

head of any department or agency of the United States, any civilian official empowered by State or Federal law to administer oaths, or any civilian employee designated by the head of any department or agency of the United States.

[(11) include in State voting instructions express information concerning the type or types of writing instruments which may be used to mark the absentee ballot, preferably pen or indelible pencil; and

[(12) provide that absentee ballots will be available for mailing to the applicant as soon as practicable before the last date on which such ballot will be counted.

[SEC. 103. It is recommended that each of the several States make available to the officer designated by the President under section 201 of this Act appropriate statistical data to assist him in compiling comprehensive information of operations under this Act.

[SEC. 104. It is recommended that each of the several States permit any person covered by section 101(1) of this Act who is otherwise fully qualified to register and vote in the State to acquire legal residence in that State, notwithstanding his residence on a military installation, and to register and vote in local, State, and national elections.

## [TITLE II

### [FEDERAL RESPONSIBILITIES

[SEC. 201. The President is hereby authorized to designate, with provision for redelegation, the head (hereinafter referred to as the Presidential designee) of any executive department or agency to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under this Act. The Presidential designee is authorized to request from other executive departments and agencies such assistance as he deems necessary to effectuate the purposes of this Act, and shall submit a report to the President and to the Congress in the first odd-numbered year following the year in which the Presidential election is held. Such report shall cover the administration of Federal responsibilities authorized under this title, the progress of the States in carrying out the recommendations contained in title I, statistical data relating to absentee voting, and such other information as the Presidential designee may consider appropriate.

[SEC. 202. The Presidential designee shall request, annually or more often when appropriate, each State to furnish him with current absentee voting information for such State. Such information shall include election dates, officers to be elected, constitutional amendments, and other proposals to be voted on, absentee registration and voting procedures, any provision under such State's law requiring the removal of the name of any person from such State's registration roll (for whatever reason), information related to the number of absentee voters in a State who are entitled to vote in Federal elections under this Act, and other relevant data. As soon as possible after receipt of such information, he shall furnish it to the departments and agencies of the executive branch affected by

this Act. Such departments and agencies are authorized to reprint and distribute such information to the extent necessary.

[SEC. 203. All Government officials shall, to the extent practicable and compatible with their primary responsibilities, cooperate with the Presidential designee in carrying out the purposes of this Act. All such officials shall, as far as practicable, take all reasonable measures to expedite, transmit, deliver, and return post cards, ballots, envelopes, and instructions for voting procedures mailed to or by persons to whom this Act is applicable. In addition, and as requested by the Presidential designee, it shall be the duty of—

[(1) the Attorney General to cooperate and advise with the government of the several States in the formulation of drafts of State legislation designed to implement the recommendations for State action contained in this Act;

[(2) the Administrator of General Services to cause to be printed and distributed post cards for use in accordance with the provisions of this Act. Such post cards shall be delivered by the department or agency concerned to persons to whom this Act is applicable for use at any general election at which electors for President and Vice President or Senators and Representatives are to be voted for. For use in such elections, post cards shall be in the hands of the persons concerned not later than August 15 before the election if they are outside the territorial limits of the United States and not later than September 15 before the election if they are inside the territorial limits of the United States. To the extent practicable and compatible with other operations, post cards shall also be made available at appropriate times to such persons for use in other general, primary, and special elections; and

[(3) the Postmaster General and the heads of the departments and agencies concerned to facilitate the transmission of balloting materials to and from persons to whom this Act is applicable. Any balloting material sent from the United States to such persons shall be sent by priority airmail or by the most expedited postal service available. Any balloting material sent to the United States by such persons shall be returned by priority airmail or by the most expedited service available, wherever practicable. In the case of ballots executed outside the United States by any such person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed for this purpose.

[SEC 204. The form of the Federal post card application shall be as follows:

[(a) The cards shall be approximately nine and one-half by four and one-eighth inches in size.

[(b) Upon one side, perpendicular to the long dimension of the card, there shall be printed in black type the following:

[FILL OUT BOTH SIDES OF CARD

[POST CARD APPLICATION FOR ABSENTEE BALLOT

State or Commonwealth of ..... (Fill in name of State or Commonwealth).....

[(1) I hereby request an absentee ballot to vote in the coming election:
(GENERAL) (PRIMARY)* (SPECIAL) ELECTION

(Strike out inapplicable words)

[(2) * If a ballot is requested for a primary election, print your political party affiliation or preference in this box: ☐

(If primary election is secret in your State, do not answer) ☐

[(3) I am a citizen of the United States, eligible to vote in above State, and am: ☐
[a. A member of the Armed Forces of the United States
[b. A member of the merchant marine of the United States
[c. A citizen of the United States temporarily residing outside of the territorial limits of the United States and the District of Columbia
[d. A spouse or dependent of a person listed in (a) or (b) above
[e. A spouse or dependent residing with or accompanying a person described in (c) above
[(4) I was born on ..... (Day) ..... (Month) ..... (Year) .....
[(5) For ..... years preceding the above election my home (not military) residence in the above State has been ..... (Street and number or rural route, etc.) ..... in the county or parish of .....
The voting precinct or election district for this residence is ..... (Enter if known).....
[(6) Remarks: .....
[(7) Mail my ballot to the following official address:
For those assigned in the U.S.:

(Unit (Co., Sq., Trp., Bn., etc), Govt. Agency, or Office)

(Military Base, Station, Camp, Fort, Ship, Airfield, etc.)

For those assigned elsewhere:

(APO or FPO number)

[(8) I am NOT requesting a ballot from any other State and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address.
[(9) ..... (Signature of person requesting ballot) .....
[(10) ..... (Full names, typed or printed, with rank or grade, and service number) .....
[(11) Subscribed and sworn to before me on ..... (Day, month, and year) .....
(Signature of official administering oath) .....
(Typed or printed name of official administering oath) .....
(Title or rank, service number, and organization of administering official) .....

INSTRUCTIONS

[A. Before filling out this form see your voting officer in regard to the voting laws of your State and absentee registration and voting procedure.
[B. Type or print all entries except signatures. FILL OUT BOTH SIDES OF CARD.
[C. Address card to proper State official. Your voting officer or commanding officer will furnish you his title and address.
[D. Mail card as soon as your State will accept your appliction.
[E. NO postage is required for the card.

[(c) Upon the other side of the card there shall be printed in red type the following

FILL OUT BOTH SIDES OF THE CARD

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Official Mailing Address

FREE of U.S. Postage
Including Air Mail

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

To: _____
(Title of Election Official)

_____
(County or Township)

_____
(City or Town, State)

[(d) Notwithstanding the provisions of subsections (a), (b), and (c), the Presidential designee shall design, for purposes of carrying

out the provisions of this Act and the Overseas Citizens Voting Rights Act of 1975, a single form of postcard application for registration to vote and for an absentee ballot. The Presidential designee is empowered to promulgate such form by regulation and upon adoption of such form, subsections (a), (b), and (c) of this section shall have no effect.

[SEC. 205. The previously authorized Federal post card form shall be utilized prior to and in connection with the election for Members of Congress next ensuing after the date of enactment of this Act, and the Presidential designee shall initiate action to make such forms available to departments and agencies having a need therefor. Thereafter only the post card form authorized in this Act shall be utilized. .

## [TITLE III

### [DEFINITIONS AND MISCELLANEOUS PROVISIONS

[SEC. 301. As used in this Act—

[(1) The term "Armed Forces" means the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (63 Stat. 804), as amended.

[(2) The term "members of the merchant marine of the United States" means persons (other than members of the Armed Forces) employed as officers or members of crews of vessels documented under the laws of the United States, or of vessels owned by the United States, or of vessels of foreign-flag registry under charter to or control of the United States, and persons (other than members of the Armed Forces) enrolled with the United States for employment, or for training for employment, or maintained by the United States for emergency relief service, as officers or members of crews of any such vessels; but does not include persons so employed, or enrolled for such employment or for training for such employment, or maintained for such emergency relief service, on the Great Lakes or the Inland waterways.

[(3) The term "dependent" means any person who is in fact a dependent.

[SEC. 302. Official post cards, ballots, voting instructions, and envelopes referred to in this Act, whether transmitted individually or in bulk, shall be free of postage, including air-mail postage, in the United States mails.

[SEC. 303. Every individual concerned with the administration of this Act shall take all necessary steps to prevent fraud, to protect voters against coercion of any sort, and to safeguard the integrity and secrecy of ballots cast.

[SEC. 304. No act done in good faith under this Act by a person seving in or with the Federal or military service of the United States in the exercise of his judgment as to what was practicable and compatible with military, merchant marine, or other Federal governmental operations, shall constitute a violation of any provision of law relating to the elective franchise.

[SEC. 305. It shall be unlawful for any commissioned, noncommissioned, warrant, or petty officer in the Armed Forces (1) to attempt to influence any member of the Armed Forces to vote or not

to vote for any particular candidate, or (2) to require any member of the Armed Forces to march to any polling place or place of voting, but nothing in this Act shall be deemed to prohibit free discussion regarding political issues or candidates for public office.

[SEC. 306. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

[SEC. 307. The Act entitled "An Act to provide for a method of voting, in time of war, by members of the land and naval forces absent from the place of their residence", approved September 16, 1942 (56 Stat. 753), as amended, is repealed.

[SEC. 308. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.]

## OVERSEAS CITIZEN'S VOTING RIGHTS ACT OF 1975

[An Act

[To guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Overseas Citizens Voting Rights Act of 1975".

### [DEFINITIONS

[SEC. 2. For the purposes of this Act, the term—

[(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

[(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands;

[(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

[(4) "official postcard" means a postcard application for registration to vote and for an absentee ballot in the form provided in section 204(d) of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–14(d)).

### [RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

[SEC. 3. Each citizen residing outside the United States shall have the right to register absentee for, and to vote by, an absentee ballot in any Federal election in the State, or any election district

of such State, in which he was last domiciled immediately prior to his departure from the United States and in which he could have met all qualifications (except any qualification relating to minimum voting age) to vote in Federal elections under any present law, even though while residing outside the United States he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, If—

[(1) he has complied with all applicable State or district qualifications and requirements, which are consistent with this Act, concerning absentee registration for, and voting by, absentee ballots;

[(2) he does not maintain a domicile, is not registered to vote and is not voting in any other State or election district of a State and territory or in any territory or possession of the United States; and

[(3) he has a valid passport or card of identity and registration issued under the authority of the Secretary of State or, in lieu thereof, an alternative form of identification consistent with this Act and applicable State or district requirements, if a citizen does not possess a valid passport or card of identity and registration.

[ABSENTEE REGISTRATION AND BALLOTS FOR FEDERAL ELECTIONS

[SEC. 4. (a) Each State shall provide by law for the absentee registration or other means of absentee qualification of all citizens residing outside the United States and entitled to vote in a Federal election in such State pursuant to section 3 whose application to vote in such election is received by the appropriate election official of such State not later than thirty days immediately prior to any such election.

[(b) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing outside the United States who—

[(1) are entitled to vote in such State pursuant to section 3;

[(2) have registered or otherwise qualified to vote under subsection (a); and

[(3) have returned such ballots to the appropriate election official of such State in sufficient time so that such ballot is received by such election official not later than the time of closing of the polls in such State on the day of such election.

[(c) In carrying out the provisions of this section, it is recommended that each State—

[(1) accept any official postcard which is duly executed by any person who meets the requirements in section 3 of this Act as a simultaneous application for registration under such State's election laws and for an absentee ballot under such State's absentee balloting laws;

[(2) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

[(3) authorize and instruct the State or local election officials, upon receipt of any official postcard application or any

other application for registration to vote or an absentee ballot, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope; and

[(4) provide, that there be printed across the face of each envelope the words "Official Election Balloting Material—Via Air Mail", or similar language.

[CURRENT ABSENTEE VOTING INFORMATION

[SEC. 5. (a) The Presidential designee under section 201 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–11) (hereinafter in this Act referred to as the 'Presidential designee') shall request, when appropriate, each State to furnish him with information on the current absentee registration and voting procedures of each State pertaining to citizens entitled to vote in Federal elections under this Act. Such information shall include election dates, officers to be elected, any provisions under such State's law requiring the removal of the name of any person from such State's voter registration roll (for whatever reason), and information related to the number of absentee voters in such State who are entitled to vote in Federal elections under this Act. Where consistent with their respective duties, appropriate departments or agencies of the Federal Government shall assist and cooperate with the Presidential designee, both in the collection of such information and in its dissemination to persons who meet the requirements in section 3 of this Act.

[(b) The Secretary of State shall publicize, in the manner best designed to reach the persons meeting the requirements in section 3 of this Act—

[(1) the right of such persons to vote in Federal elections and the procedures available to such persons to enforce that right, as provided in this Act; and

[(2) with the assistance of the Postmaster General, the availability of expedited mail delivery of balloting material under this Act.

The Presidential designee shall notify all appropriate State and local election officials of such availability under this Act and under the Federal Voting Assistance Act of 1955 ( 42 U.S. 1973cc et seq.).

[PRINTING AND TRANSMITTING OF POSTCARDS; FREE POSTAGE; PUBLICITY

[SEC. 6. (a) The Administrator of General Services shall cause to be printed and distributed to the Department of Justice, the Department of State, and any other appropriate department or agency of the Federal Government official postcards for use in accordance with the provisions of this Act, as directed by the Presidential designee. Such departments or agencies shall deliver or make available such postcards to persons meeting the requirements in section 3 of this Act not later than August 15 immediately before any general Federal election for use in such election. To the extent practicable, such postcards shall also be made available at appropriate times to such persons for use in special or primary Federal elections.

[(b)(1) The Postmaster General, the Attorney General, the Secretary of State, and the head of any other appropriate department or agency of the Federal Government shall facilitate the transmission of balloting material, including official postcards, absentee ballots, voting instructions, and envelopes for the return of such ballots, to and from persons meeting the requirements in section 3 of this Act.

[(2) Any balloting material sent from the United States to any person meeting the requirements in section 3 of this Act shall be sent by priority airmail or by the most expedited postal service available.

[(3) Any balloting material sent to the United States by any person meeting the requirements in section 3 of this Act shall be returned by priority airmail or by the most expedited service available, wherever practicable. Such material may be mailed from any Armed Forces post office in an overseas area established as provided in section 406 of title 39, United States Code, unless otherwise prohibited by any treaty or other agreement between the United States and a foreign country. In the case of ballots executed outside the United States by any person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

[(c) Official postcards, ballots, voting instructions, and envelopes, whether transmitted individually or in bulk, shall be free of postage, including airmail postage, when sent from the United States in the United States mails.

[SEC. 7. Section 9 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd-5), as so redesignated in section 4(1), is amended—

[(1) by inserting "(a)" before "Nothing"; and

[(2) by adding at the end thereof the following new subsection:

(b) The exercise of any right to register or vote in Federal elections by any citizen outside the United States shall not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law.

[ENFORCEMENT

[SEC. 8. (a) Whenever the Attorney General has reason to believe that a State or election district undertakes to deny the right to register or vote in any election in violation of section 3 or fails to take any action required by section 4, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

[(b) Whoever knowingly or willfully shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

[(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence for the purpose of estab-

lishing his eligibility to register, qualify, or vote under this Act, or conspires with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register, qualify, or vote under this Act, or pays, or offers to pay, or accepts payment either for registration to vote or for voting shall be fined not more than $5,000, or imprisoned not more than five years, or both.

[SEVERABILITY

[SEC. 9. If any provision of this Act is held invalid, the validity of the reminder of the Act shall not be affected.

[EFFECT ON CERTAIN OTHER LAWS

[SEC. 10. Nothing in this Act shall—

[(1) be deemed to require registration in any State of election district in which registration is not required as a precondition to voting in any Federal election; or

[(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

[EFFECTIVE DATE

[SEC. 11. The provisions of the Act shall apply with respect to any Federal election held on or after January 1, 1976.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 12. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

[SEC. 13. Section 101 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc) is amended—

[(1) by inserting "(a)" before "The"; and

[(2) by adding at the end thereof the following new subsection:

[(b) Each State shall enable every citizen in the following categories who is absent from the place of his voting residence to register absentee and to vote by absentee ballot in any Federal election, as defined in section 2(1) of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd (1)), held in his election district of precinct if he is otherwise eligible to vote in that election:

[(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

[(2) Members of the Merchant Marine of the United States, and their spouses and dependents.

The rights granted in this section shall be supplemental to the voting rights presently enjoyed by these citizens under other Federal and State laws.]

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